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BILL ANALYSIS

BILL NUMBER: House Bill 4274 (As Introduced)
TOPIC: Claims information for Third Party Administrators
SPONSOR: Representative Vander Veen
CO-SPONSORS: Rep. Gosselin, Taub, and Drolet
COMMITTEE: House Committee on Education
Analysis Done: May 16, 2005

POSITION

The Office of Financial and Insurance Services opposes this legislation.

PROBLEM/BACKGROUND

The proponents of this legislation believe it will increase competition and therefore decrease premiums in the public school district health insurance market. Under the bill, a service contract between a third party administrator (TPA) and a public school district would have to contain a provision giving school districts access to the claims history of the public school employer on request. By giving this specific information to the employer, the proponents of this legislation argue that the employer would have more information with which to shop for less expensive health insurance coverage for their employees.

DESCRIPTION OF BILL

The proposed legislation would require that the service contract between a TPA and a public school district contain a requirement that the TPA provide claims history information for that school district upon the district's request. The information must include total number of individuals covered, total number of claims paid, total number of claims pending and the total dollar amount of those claims, claims experience data by coverage component, and any other information the public school employer requests.

The TPA would be prohibited from disclosing with that claim information any personal data about individual members covered in the benefit plan.

SUMMARY OF ARGUMENTS

Pro

Those who support this legislation maintain that it will allow public school districts to more effectively shop for coverage among various carriers and consequently lower their health care benefit plan costs by giving them the opportunity to choose a lower cost product. Proponents of the bill make the assumption that even small groups of public school employees who have better than average claims experience will be able to purchase health insurance at a premium that is lower than the adjusted community rate of a large group of school districts. Proponents of this legislation have not to our knowledge discussed the impact this legislation would have on those who remain in the larger group.

Con

While this bill applies to all TPAs that contract with public school districts, this bill could particularly impact the Michigan Education Special Services Association (MESSA), which is the largest association that provides health care benefit plans to public schools in Michigan. Most of the school districts in MESSA enroll less than 100 employees. If districts that believe they have better than average claims experience leave the MESSA pool, premiums for those that remain would increase. However, school districts that leave a community rate pool like MESSA with the expectation of lower rates may not actually end up paying less.

A school district bargaining unit that leaves the MESSA pool but is too small to be experience rated on its own would not be eligible for the protections of the Small Employer Market Reform Act (Chapter 37 of the Insurance Code, MCL 500.3701 et seq.). Chapter 37 defines the group size by the total number of employees within the employer group. For example, 30 teachers in a school district would constitute a small segment of a larger employer group that might be seeking health insurance. However, if you add the teacher group to the 50 additional staff employed by the school district (such as administrators, maintenance, and support staff) that would bring the total employer group size to 80 people. Since Chapter 37 defines a small group by total employer size, the teacher group, who are to be covered by a different health plan than the other 50 employees, would not be eligible for the protections found in Chapter 37 such as guaranteed renewability, rate bands, and rating constraints. By pooling all of these groups together into one large group, MESSA allows these smaller segments of the employer groups to purchase the coverages that have been collectively bargained for on their behalf at a rate that has been stabilized and pooled with the larger groups. This is the basic premise of insurance.

Being part of the large group that MESSA pools together allows the smaller groups to maintain rate stability through the use of its rate stabilization reserve (RSR). The use of the RSR enables the school districts to more effectively budget for their health insurance costs from one year to the next. A small group that leaves MESSA may

receive a low rate one year because it has good experience, but if one or two employees within the group experience major medical problems, the school district would be faced with dramatic rate increases based on that experience the very next year. Under this scenario, the districts could not rely on predictable/stable rates from one year to the next. Through the RSR, MESSA has been able to provide public school employer groups with fairly stable rates, thereby avoiding the shifting of more of the rising costs of health care to their employees through higher copays and higher employee contributions. As health care costs have risen, MESSA has been able to use the RSR to help mitigate the effects of the increases on rates passed on to the public school districts.

This legislation would also interfere with the collective bargaining process that is so vital to the balance maintained in the educational system statewide. Public school systems negotiate health care benefit packages with unions that represent their employees. During that negotiation process, the schools have the opportunity to choose the health benefit plan they believe benefits themselves and the employees the most. Competition among the various health plan carriers takes place during the process as the negotiators for the public school seek to find the best possible plan for the best price. Fostering competition in this manner works to everyone's advantage. However, the changes proposed in this legislation may make competition work to the disadvantage of all members since it would serve to encourage the member groups that perceive they have better than average claims experience to leave the larger group, which could increase premiums for those that remain without assuring lower costs for those that leave.

This legislation only affects a small part of the educational institution market, since it only requires the TPA to provide the claims data to the public schools so they may shop for coverage. MESSA administers a variety of school personnel's health care, including parochial, charter and religious school, groups that would not be covered by the requirements of this legislation. The narrow focus of the legislation would destabilize the pool and make it more difficult for all groups to manage their costs from year to year.

While the TPA is required to protect the identities of individuals within a group when releasing the claims data required, it would be impractical if not impossible to comply with this requirement. With the information required to be released under this proposal, individuals with various health related issues within the group would be easily identifiable, especially with the size of the groups that would be seeking this information. The federal privacy requirements contained within the Health Insurance Portability and Accountability Act of 1996 (HIPAA) could be jeopardized under this provision.

FISCAL/ECONOMIC IMPACT

OFIS has identified the following revenue or budgetary implications in the bill as follows:

- (a) To the Office of Financial and Insurance Services: None

Budgetary:
Revenue:
Comments:

(b) To the Department of Labor and Economic Growth: None known.

Budgetary:
Revenue:
Comments:

(c) To the State of Michigan: None known.

Budgetary:
Revenue:
Comments:

(d) To Local Governments within this State:

Comments: This legislation is likely to increase health insurance costs for many public school districts.

OTHER STATE DEPARTMENTS

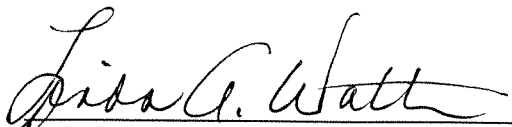
Department of Education may be interested in the provisions of this legislation.

ANY OTHER PERTINENT INFORMATION

None known.

ADMINISTRATIVE RULES IMPACT

OFIS has general rulemaking authority under the third party administrator act, 1984 PA 218, MCL 550.960.



Linda A. Watters
Commissioner

5-17-05

Date